

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 07-00007–CR-W-HFS
	)	
RAYMOND W. ZWEGO, JR., et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM TO COUNSEL**

It may be useful to identify my special concerns so that the Government’s brief in opposition to the Shields motion to dismiss can be adequately responsive.<sup>1</sup>

Absent some direction the Government may be tempted to target its response on aspects where the motion is weakest (or novel); i.e., on procedural grounds, while rejecting the substantive aspects, where the motion is most challenging (assuming the factual presentation is essentially comprehensive).

If the Government is inhibited in laying out expected trial material relating to Shields, as in an opening statement, because other defendants are involved and could claim prejudice from pretrial disclosures, I would be satisfied with omission of names of other defendants and anticipated

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<sup>1</sup>Because this motion goes to the heart of the trial issue of submissibility I am examining it initially, leaving other pretrial motions for initial handling by Judge Maughmer.

witnesses. Reference could be made to such persons by use of the alphabet. Counsel's good faith in such identification and characterization of anticipated proof may be assumed.<sup>2</sup>

/s/ Howard F. Sachs  
HOWARD F. SACHS  
UNITED STATES DISTRICT JUDGE

March 26, 2007

Kansas City, Missouri

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<sup>2</sup>If the Government's case against Ms. Shields stands or falls on the significance of the signed Settlement Statement, summary judgment practice would be useful as a test of submissibility, but of course we do not have that available in criminal cases. A motion to dismiss is procedurally rather daring, but substantive rulings have been made occasionally (but rarely) based on the sufficiency of opening statements, and also in mid-trial, when the Government's proof has been completed.